

**Dismissed and Memorandum Opinion filed July 16, 2020.**



**In The**

**Fourteenth Court of Appeals**

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**NO. 14-20-00358-CV**

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**THE STATE OF TEXAS, Appellant**

**V.**

**TEXAS DEMOCRATIC PARTY AND GILBERTO HINOJOSA, IN HIS  
CAPACITY AS CHAIRMAN OF THE TEXAS DEMOCRATIC PARTY,  
JOSEPH DANIEL CASCINO, SHANDA MARIE SANSING, ZACHARY  
PRICE, LEAGUE OF WOMEN VOTERS OF TEXAS, LEAGUE OF  
WOMEN VOTERS OF AUSTIN-AREA, MOVE TEXAS ACTION FUND,  
WORKERS DEFENSE ACTION FUND, Appellees**

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**On Appeal from the 201st District Court  
Travis County, Texas  
Trial Court Cause No. D-1-GN-20-001610**

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**MEMORANDUM OPINION**

On June 9, 2020, appellees Texas Democratic Party, Gilberto Hinojosa in his capacity as Chairman of the Texas Democratic Party, Joseph Daniel Cascino, Shanda Marie Sansing, Zachary Price, League of Women Voters of Texas, League

of Women Voters of Austin Area, MOVE Texas Action Fund, and Workers Defense Action Fund, under the authority of Texas Rules of Appellate Procedure 10.1 and 42.3, filed an unopposed joint motion asking this court to dismiss the appeal for lack of jurisdiction based on mootness.

On June 9, 2020, the appellees nonsuited all of their claims against Defendant Dana DeBeauvoir, in her official capacity as Travis County Clerk, and Intervenor-Defendant/Appellant The State of Texas. The appellees attached a copy of the Notice of Nonsuit as Exhibit A to the motion to dismiss the appeal. On June 22, 2020, the trial court signed an order granting the nonsuit and dismissing Defendant Dana Debeauvoir and Intervenor State of Texas from the case.

Under Texas Rule of Civil Procedure 162, “[a]t any time before the plaintiff has introduced all of his evidence other than rebuttal evidence, the plaintiff may dismiss a case, or take a non-suit, which shall be entered in the minutes.” Tex. R. Civ. P. 162. The issuance of a temporary injunction in the case does not prevent the plaintiff from taking a non-suit. *Gen. Land Office of State of Tex. v. OXY U.S.A., Inc.*, 789 S.W.2d 569, 571 (Tex. 1990).

Even though the State of Texas’s interlocutory appeal from the trial court’s temporary injunction was pending in this court, the appellees still had the ability to file their nonsuit under Rule 162, and the trial court had jurisdiction to grant the nonsuit. *See Gen. Land Office of State of Tex.*, 789 S.W.2d at 571. The appellees’ nonsuit took effect upon filing and mooted the case or controversy between the parties in this case. *See Univ. of Tex. Med. Branch at Galveston v. Estate of Blackmon ex rel. Shultz*, 195 S.W.3d 98, 100 (Tex. 2006) (holding that plaintiff’s nonsuit of claims against defendant asserting sovereign immunity was effective upon filing and mooted the case or controversy between the parties, even though nonsuit was taken after defendant had filed an interlocutory appeal). In addition, the

temporary injunction ceased to exist when the trial court granted the nonsuit. *See Gen. Land Office of State of Tex.*, 789 S.W.2d at 571. The trial court’s order granting the nonsuit, which vacates the temporary injunction on appeal, is not precluded by Rule 29.5 of the Texas Rules of Appellate Procedure. *McGinn v. Prime Energy Servs., LLC*, No. 14-19-00014-CV, 2020 WL 1679323, at \*1 (Tex. App.—Houston [14th Dist.] Apr. 7, 2020, no pet. h.) (mem. op.).

Because the appellees nonsuited all of the claims they asserted in the trial court, there is no live controversy for the court to decide, therefore, this court lacks jurisdiction over the pending interlocutory appeal. *See Univ. of Tex. Med. Branch at Galveston*, 195 S.W.3d at 100–01. “Appellate courts are prohibited from deciding moot controversies because the separation-of-powers article prohibits advisory opinions on abstract questions of law.” *Klein v. Hernandez*, 315 S.W.3d 1, 3 (Tex. 2010).

We dismiss the appeal for want of jurisdiction.

/s/ Margaret “Meg” Poissant  
Justice

Panel consists of Chief Justice Frost and Justices Zimmerer and Poissant.